

In the Matter of Merchant Mariner's Document No. Z-663396  
Issued to: JOSEPH HENRI COOKE BROWN

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

915

JOSEPH HENRI COOKE BROWN

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 16 March 1956, an Examiner of the United States Coast Guard at San Francisco, California revoked Merchant Mariner's Document No. Z-663396 issued to Joseph Henri Cooke Brown upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as a messman on board the American MV COASTAL ADVENTURER under authority of the document above described on or about 26 November 1951, while said vessel was at San Pedro, California, he wrongfully had marijuana in his possession.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was represented by counsel of his own choice and he entered a plea of "guilty" to the charge and specification proffered against him.

The Investigating Officer made an opening statement and introduced in evidence several documentary exhibits including a certified copy of Appellant's conviction for possession of marijuana on 26 November 1951.

Counsel for Appellant made a statement presenting the mitigating circumstances which appear in his appeal infra.

At the conclusion of the hearing, the Examiner announced his decision and concluded that the charge and specification had been proved by plea. He then entered an order revoking Appellant's Merchant Mariner's Document No. Z-663396.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 26 November 1951, Appellant was serving as a messman on board the American MV COASTAL ADVENTURER and acting under authority of his Merchant Mariner's Document No. Z-663396 while the ship was at San Pedro, California.

On this date, U. S. Customs officials removed Appellant from the ship after a quantity of marijuana was found in his possession. Appellant paid the Customs fine of \$257 against the vessel.

On 15 January 1952, Appellant was convicted before the Superior Court of the State of California, in and for the County of Los Angeles, for unlawful possession of marijuana. He was sentenced to imprisonment for a period of three months.

Appellant's record with the Coast Guard is unblemished except for this incident.

#### BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant states that the order of revocation is too harsh for the following reasons:

1. The offense occurred during Appellant's first year of sailing when he was only 24 years of age.
2. Appellant has been sailing ever since 1951 and has a clear record with both the Coast Guard and civil authorities.
3. For this offense, Appellant paid a fine of \$257 and served a 90-day sentence with time off for good behavior.
4. Appellant has a wife and two children depending on him for support.
5. Appellant herewith submits six letters attesting to his outstanding character and integrity.

For these reasons, it is respectfully requested that the order be modified to provide for a probationary period of suspension.

#### OPINION

The Examiner properly revoked Appellant's document since such action is required by 46 CFR 137.03-1 when a seaman has been found guilty of misconduct by virtue of the possession, use, sale or association with narcotic drugs.

The order of revocation will not be modified. But in view of Appellant's good behavior since this offense was committed and the other mitigating circumstances presented, the two years immediately prior to the date of the Examiner's order will be taken into consideration in calculating the three year period after which Appellant may apply for the issuance of a new document in accordance with 46 CFR 137.03-30. Hence, Appellant may make such an application on or after 16 March 1957.

ORDER

The order of the Examiner dated at San Francisco, California, on 16 March 1956 is ~~REVERSED~~ **CONFIRMED**.

J. A. Hirshfield  
Rear Admiral, United States Coast Guard  
Acting Commandant

Dated at Washington, D. C., this 13th day of September, 1956.